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1. Fugitive arrest warrant may be issued under the procedures of Code of Alabama 1975, § 15-9-40 for a parole or probation violator from another state. Such violator may be extradited to the requesting state under the statutory procedures for extradition.

2. There is no law specifically requiring inspection of the Southeast Alabama Medical Center by a grand jury. The grand jury may inquire into matters of the hospital if some criminal activity or violation of state law is suspected.

Dear Mr. Valeska:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION 1

If a probationer or parolee from another state comes to Alabama in violation of the subject's parole or probation there, can district judges issue fugitive warrants for his or her arrest? Can the subject be extradited to the state which has jurisdiction over his or her parole or probation for such violations?

Sometimes, situations exist where there has been a parole or probation violation warrant issued in another state and sent to Houston County for service. This violator is not supervised in Alabama, and has come here in violation of the probation or parole.

FACTS, LAW AND ANALYSIS

The laws regarding extradition are found at Code of Alabama 1975, § 15-9-20, et seq.

Initially, it should be stated that an alleged probation or parole violator is a fugitive from justice and may be subject to extradition. Blevins v. State, 364 So.2d 388 (Ala. 1978); Johnson v. State, 45 Ala. App. 40, 222 So.2d 370 (1969).

Regarding the warrant that is issued in another state, this warrant would confer no authority on law enforcement officers in Alabama to arrest a parole or probation violator who has fled from that state. The authority of a state stops at the state's borders. Minder v. State of Georgia, 183 U.S. 559, 46 L.Ed. 328, 22 S.Ct. 224 (1901); Barnes v. State, 337 So.2d 22 (Ala.Cr.App. 1976); Quarterly Report of the Attorney General, Vol. 156, p. 19.

Section 15-9-40 concerns arrest prior to requisition. It states:

"Whenever any person within this state shall be charged on the oath of any credible person before any district or circuit court judge of this state with the commission of any crime in any other state and, except in

cases arising under section 15-9-34,* with having fled from justice; or whenever complaint shall have been made before any district or circuit court judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state, that the accused has been charged in such state with the commission of the crime and, except in cases arising under section 15-9-34, that he has fled from justice and is believed to have been found in this state, the judge shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed, directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other district or circuit court judge who may be convenient of access to the place where the arrest may be made to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant."

Section 15-9-42 concerns the commitment of such person to jail or admission to bail.

The Supreme Court stated in Ex parte Hamm, 564 So.2d 469 (Ala. 1990) that § 15-9-40 entitled "Arrest prior to requisition," contains certain restrictions, applicable when a fugitive is sought for extradition, for issuing a warrant before the foreign Governor's extradition papers have arrived in this state. Thus, a fugitive arrest warrant may be issued under the procedure of § 15-9-40 for a parole or probation violator from another state who is found in this state.

Inasmuch as fugitive warrants are anticipatory of a formal demand from the requisition state, they lapse after the passage

* Section 15-9-34 concerns the surrendering of a person committing an act in Alabama resulting in a crime in another state.

of a reasonable time. This estimated span should be set in the first instance by judge of the committing court to which the sheriff returns the initial Alabama warrants accusing the prisoner as a fugitive. Sparks v. State, 44 Ala. App. 531, 215 So.2d 469 (1968).

It must be noted that a warrant of extradition cannot be issued until a demand is made by the executive authority of the other state as provided in § 15-9-31, and until certain documents are issued by the executive authority as stated at § 15-9-33.

CONCLUSION

A fugitive arrest warrant may be issued under the procedures of Code of Alabama 1975, § 15-9-40 for a parole or probation violator from another state. Such violator may be extradited to the requesting state when a demand is made by the executive authority of the other state as provided at § 15-9-31, and when those documents named in § 15-9-33 are presented by the executive authority making the demand.

QUESTION 2

Does Alabama law require inspections of Southeast Alabama Medical Center by grand juries?

FACTS, LAW AND ANALYSIS

The state laws regarding the empaneling and proceedings of grand juries are found at Code of Alabama 1975, § 12-16-190, et seq. I cannot find any provision in these laws specifically requiring a grand jury to inspect a hospital. Of course, if some criminal activity or violation of state law is suspected in connection with the hospital, a grand jury may then inquire into the matters of the hospital.

The state laws regarding hospitals, and hospital associations, corporations and boards are found at Code of Alabama 1975, § 22-21-1, et seq. Here too, I cannot find any provision requiring a grand jury to inspect a hospital.

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Furthermore, I know of no local law requiring inspection by the grand jury in Houston County of any hospital in that county.

CONCLUSION

There is no law specifically requiring inspection of the Southeast Alabama Medical Center by a grand jury. The grand jury may inquire into matters of the hospital if some criminal activity or violation of state law is suspected.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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